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1	KEVIN V. RYAN (CSBN 118321) United States Attorney							
3	EUMI L. CHOI (WVBN 0722) Chief, Criminal Division							
4	PATRICIA J. KENNEY (CSBN 130238) Assistant United States Attorney							
5	450 Golden Gate Avenue, Box 36055							
7	San Francisco, CA 94102 Telephone: 415.436.6857 Facsimile: 415.436.6748							
8	Email: patricia.kenney@usdoj.gov							
9	Attorneys for the United States of America							
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11	UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA							
L <b>2</b>	NORTHERN DISTRICT OF CALIFORNIA  SAN FRANCISCO DIVISION							
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L <b>4</b>	UNITED STATES OF AMERICA,	) No. C 04-2977 JSW						
L <b>5</b>	Plaintiff,	) STIPULATION AND ORDER						
L6   L7	v. 2002 CHEVROLET TRAILBLAZER AND	) AUTHORIZING AN INTERLOCUTORY ) SALE OF DEFENDANT 2002 ) CHEVROLET TRAILBLAZER						
L /	\$10,380 IN UNITED STATES CURRENCY,	AND EXPEDITED SETTLEMENT OF GMAC'S CLAIM						
.9	Defendants.	)						
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Stip & Order C 04-2977 JSW

The parties agree, subject to the Court's approval, that

- 1. The United States and claimants Kenneth Joseph Shepp and General Motors Acceptance Corporation ("GMAC"), through their undersigned counsel, agree, subject to the Court's approval, to an interlocutory sale of defendant 2002 Chevrolet Trailblazer, vehicle identification number IGNDT13S222222842 ("Defendant Trailblazer"), by the United States Marshals Service at the earliest possible date so as to satisfy the lien of GMAC and to allow the substitution of the net proceeds from the sale as the *res* in this forfeiture action. The United States reserves the right to void this expedited settlement agreement if, before payment of the lien, the United States obtains new information indicating that the lienholder was not an "innocent owner" or a "bona fide purchaser" which had no prior knowledge of the unlawful activity alleged in the Complaint for Forfeiture filed in this action.
- 2. The owner of record of Defendant Trailblazer is claimant Kenneth Joseph Shepp and GMAC has a lien recorded against Defendant Trailblazer in the amount of three thousand three hundred thirty six dollars (\$3,336.00). A copy of the Certificat of Title showing the legal and registered ownership of the vehicle is attached as Exhibit A. A copy of the motor vehicle sales contract is attached as Exhibit B.
- 3. The United States and claimants Kenneth Joseph Shepp and General Motors

  Acceptance Corporation agree to the interlocutory sale on the following terms:
  - a. Claimants Shepp and GMAC will cooperate in any way deemed necessary by the United States Marshals Service in order for the United States Marshals Service to sell Defendant Trailblazer using its normal, bimonthly procedures for auctioning off vehicles.
  - b. As part of that cooperation, claimants Shepp and GMAC will provide any and all documents and information necessary to enable the United States Marshals Service to be able to convey a clear title to Defendant Trailblazer to a bona fide purchaser for value at auction, and will do so within 10 days of the entry of this stipulation as an order.

- c. GMAC's lien will attache to the sale proceeds until such time as the lien is satisfied by payment of \$3,336.00 to GMAC out of the proceeds.
- d. After obtaining the necessary documentation, the United States Marshals

  Service will sell Defendant Trailblazer using its normal procedure for
  auctioning off vehicles after advertising their sale, and will use its best
  efforts to auction defendant at the earliest possible date.
- e. The "gross proceeds" of the sale of Defendant Trailblazer is the actual sale price of Defendant Trailblazer at the auction. The "net proceeds" of the sale of Defendant Trailblazer which are to be substituted as the *res* in this case will be determined, following the sale of Defendant Trailblazer, by deducting the amounts described below:
  - The United States Marshals Service will deduct the commission which is required to sell Defendant Trailblazer which is 7.9% of the gross proceeds of the sale; and
  - ii. The United States Marshals Service will pay three thousand three hundred thirty six dollars (\$3,336.00) from the gross proceeds of the sale to GMAC by a check made payable to General Motors Acceptance Corporation which it sends to counsel for GMAC, David E. Pinch, Severson & Werson, One Embarcadero Center, Suite 2500, San Francisco, CA 94111.
- 4. The United States and claimants Shepp and GMAC agree that compliance with the foregoing procedure will result in the full settlement and complete satisfaction of the claim of claimant GMAC and claimant GMAC will file a full release of its claim with the Court within 10 days of the receipt of the check described in paragraph 3.d.ii above.
- 5. The United States and claimants Shepp and GMAC agree that the net proceeds of the sale of Defendant Trailblazer shall be substituted as defendant res in this action and that the United States Marshals Service shall retain custody of that substitute res pending resolution of

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C 04-2977 JSW

this civil forfeiture action and further order of the Court by depositing the net proceeds in the 1 appropriate asset forfeiture fund. The United States and claimant Shepp further agree that his 2 claim will be against the substitute res in the amount of the net proceeds of the sale of Defendant 3 Trailblazer as described above. The United States reserves the right to challenge the merits of claimant Shepp's claim. 5 6 The United States and claimants agree that each party shall bear its and his own 6. attorneys' fees and any costs incurred in connection with this expedited settlement agreement and 7 interlocutory sale. 8 9 IT IS SO STIPULATED: 10 KEVIN V. RYAN United States Attorney 11 12 Dated: April 45, 2005 13 PATRICIA J. KENNEY
Assistant United States Attorney 14 Attorneys for the United States of America 15 LAW OFFICES OF DAVID MICHAEL 16 Dated: April 26, 2005 17 DAVID MICHAEL, ESQ. 18 Attorney for Claimant Kenneth Joseph Shepp 19 severson & werson 20 Dated: April 2005 21 DAVID E. PINCH 22 Attorneys for General Motors Acceptance Corp. 23 IT IS SO ORDERED ON THIS 28th DAY OF April 24 \_\_\_\_\_, 2005, PURSUANT TO THE FOREGOING STIPULATION. 25 26 27 /s/ Jeffrey S. White HONORABLE JEFFREY S. WHITE 28 United States District Judge

Stip & Order C 04-2977 JSW

## **EXHIBIT A**

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## **EXHIBIT B**

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  accurate your late speciment or near that you may late
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  b. You may have to pay all you own at once. If you
  breakly your presence (elabelly, we may domand that
  you pay all you own on the comment it error, subject
  to any paid to be law press you to remainte this comment.
  Default steems

- who pay all yes own on the content at cross, adapted to any spit the two grees year to remarked the content. Default means

   You do not pay any payment on terms.

   You she not preventing in hardwayley or one is a content. The sensor year the content in the preventing in hardwayley or one is a content. The sensor year and once will be the surposed part of the France Change, may that the surposed part of the France Change, may that the charges, and any amounts due because year defaulted.

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   You may have be pay collected easily to change the content of the France Change, may that the charges, and have year one pay a pay collected easily to come according stitutery leas, coats to collect what you own, excluding stitutery leas, coats to collect what you own, year to pay a change at the work to collect any pay.

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Notice the version.

4. WARRANTEE BELLER DESCLARES
If you do not get a written enemanty, and the Bolter
does not enter tota a certical centract within 90 days
from the date of this centrect, the Solter mobes no warrantee, caprose or longitud, on the vehicle, and
there will be no inspitude setteration of merchantability
or of fitness for a positioning purpose.
The provision does not effect any warrantee covering the
which that the vehicle menufacturer may provide
which the set of the setteration of the

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  5. Used Cor Buyera Guida. The Information you see on
  the window form for fills vehicle is part of this contract.
  Information on the window form overrides any
  contrary providenes in this contract of sale.
  Spenish Translation: Guida para compressores de
  vehiculos usedes. La información quie ve en el
  formation de la veniunilla para este vehiculo forma
  parte del presente contrate. La información
  tormulario de la veniunilla deje sin efecto toda
  disposición en contrate contant de
  venia.
- 6. Applicable Law Federal law and Cattleson law apply to the context. If any part of the context is not void, at other parts stay void We may delay or releas from enforcing any of our rights under the context without lessing them. For example, we may extend the time for making some payments without extending the time for making others.
- extending the time for multing others.

  7. Warrantes of Buyer. You promise you have given true and connect information in your application for credit, and you have no brivatelage that will make that information until the fall of the second of the truth and accuracy of the information in entering into the contract Upon request, you will provide us within documents and other information necessary to verify any time contained in your credit application. You promise you have given a true payoff amount on any vertical trade of it that payoff a more than the amount about in them 6 it. on the front of its contact, you must pay us the excess upon demand.

You want the provisions of Calli. Vehicle Code Section 1808 21 and authorize the California Department of Motor Vehicles to lumbh your residence address to us

Vehicles to furnish your resistance adjoins to us

CREDIT DIRABLE ITY INSEPRANCE MOTICE

CLAM PROCEDURE

If you become deathed, you must lid us right every. (You are advised to send this reference to the earth address to which you are namedy required to send your payments, urdees a defounce address or inspirate or marker as given to you in writing by us as the location, shows we used this to be notified.) Why will full you whom to go of the markers or outfill be to be notified.) Why will full you whom to go of the markers or outfill be to be notified.) Why are the send of the completed form to the emission occupancy as soon as possible and full set as soon as year documents. Or your deathely markers overse all of your mead payments, we CAMENT ITY TO COLLECT WHAT YOU CWE.
OIT PORCOLOGE UPON OF REPOSSESS ARY COLLATmassed payment as due or until the resurrance company pays arranged by our deather and only the control of the sent of the sent of the sent of the collect, foredeath, or repossessed if you have sery morey your deather deam a make or if a senter managege or line holder as less than a make or if a senter managege or the holder as less than the controller or or though you the senter or other than the controller or or though your first.

If he market on company pays the claim of the payment is the controller. If the market common transmitter more the order water or and on the at the market common transmitter than the transmit or the senter of the claim of the controller.

Interclosing if the intercept page the cleam within the three calendar months, we must except the money as though you paid on three if the interaction company rejects the cleam within the three calendar months are a partial deadwidy and page less than for a test deadwidth, you will have 35 days from the date that reputation or the acceptance of the partial deadwidy cleam is sent for a test deadwidth; you will have 35 days from the date that reputation or the acceptance of the partial deadwidth; cleam is sent for page part due perpension, or the difference between the past date payments and what the interaction company page for the pasted deadwidth; pitch little deague. You can conflict we, and we will tell you have much you down. After that time, we can take action to caled or hereaftees or repossesse any collaboral you may have press.

The preceding MOTICE applies only if the "personal, family or household" box in the "Primary Use for Which Purchased" of the contract is checked. In all dark cases, Buyer will not assert agency any subsequent helder or assertes of this contract cases of effectives the Buyer (dotted may have agency the Seller, or agent the manufacture of the velocity or applyment.

34	anages de référent en Day symbook in	GMAC.		(Assgned) dl (address)
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